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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-043]

Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China: Preliminary Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On February 12, 2016, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of stainless steel sheet and strip (stainless sheet and strip) from the People's Republic of China (PRC).¹ On May 6, 2016, the Department received timely allegations that critical circumstances exist with respect to imports of the merchandise under investigation.² Based on information provided by Petitioners, data placed on the record of this investigation by the mandatory respondent, and data collected by the Department, the Department preliminarily determines that critical circumstances exist for imports of stainless sheet and strip from the PRC.

DATES: Effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

¹ See Stainless Steel Sheet and Strip from the People's Republic of China – Petitions for the Imposition of Antidumping and Countervailing Duties,” February 12, 2016 (Petition). The petitioners for these investigations are AK Steel Corporation, Allegheny Ludlum, LLC d/b/a ATI Flat Rolled Products, North American Stainless, and Outokumpu Stainless USA, LLC (collectively, Petitioners).

² See Letter from Petitioners, “Antidumping and Countervailing Duty Investigations of Stainless Steel Sheet and Strip from the People's Republic of China – Petitioners Allegation of Critical Circumstances,” May 6, 2016 (Critical Circumstances Allegation).

FOR FURTHER INFORMATION CONTACT: Emily Halle, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0176.

SUPPLEMENTARY INFORMATION:

Background

Section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), provides that the Department will preliminarily determine that critical circumstances exist in CVD investigations if there is a reasonable basis to believe or suspect: (A) that “the alleged countervailable subsidy” is inconsistent with the Subsidies and Countervailing Measures (SCM) Agreement of the World Trade Organization, and (B) that there have been massive imports of the subject merchandise over a relatively short period. Section 19 CFR 351.206 provides that imports must increase by at least 15 percent during the “relatively short period” to be considered “massive” and defines a “relatively short period” as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.³ The regulations also provide, however, that, if the Department finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.⁴

On March 25, 2016, the Department selected Ningbo Baoxin Stainless Steel Co., Ltd. (Ningbo Baoxin) and Shanxi Taigang Stainless Steel Co. Ltd. (Taigang) as mandatory

³ See 19 CFR 351.206(i).

⁴ *Id.*

respondents.⁵ Since Ningbo Baoxin has not participated in this proceeding, we selected Daming International Import Export Co Ltd (Daming) as an additional mandatory respondent on May 5, 2016.⁶ Daming has not participated in this proceeding.

Alleged Countervailable Subsidies are Inconsistent with the SCM Agreement

To determine whether an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, the Department considered the evidence currently on the record of this investigation. Specifically, as determined in our initiation checklist, the following subsidy programs, alleged in the Petition and supported by information reasonably available to Petitioners, appear to be either export contingent or contingent upon the use of domestic goods over imported goods, which would render them inconsistent with the SCM Agreement: Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified As “Honorable Enterprises,”⁷ Export Loans,⁸ Export Credit Guarantees,⁹ Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment,¹⁰ Subsidies for Development of Famous Brands and China World Top Brands,¹¹ and Export Assistance Grants.¹² Therefore, the Department preliminarily determines that there are alleged subsidies in this CVD investigation that are inconsistent with the SCM Agreement.

Massive Imports

⁵ See Memorandum, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Respondent Selection,” March 25, 2016.

⁶ See Memorandum, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Second Analysis Regarding Respondent Selection,” May 5, 2016.

⁷ See PRC CVD Initiation Checklist, March 3, 2016, at 9.

⁸ *Id.*, at 10.

⁹ *Id.*, at 12.

¹⁰ *Id.*, at 21.

¹¹ *Id.*, at 32.

¹² *Id.*, at 36.

In determining whether there are “massive imports” over a “relatively short period,” pursuant to sections 703(e)(1)(B) and 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the petition (*i.e.*, the “comparison period”). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

Petitioners did not provide any argument or evidence pursuant to CFR 351.206(i), that importers, exporters or producers had a reason to believe, at some time prior to the filing of the petition, that a proceeding was likely. Thus, in order to determine whether there has been a massive surge in imports for the cooperating mandatory respondent, we have used a comparison period starting with the month the petition was filed in (*i.e.*, February 2016), up to the most recent month we have shipping data for on the record (*i.e.*, April 2016). We then selected a base period with the same number of months, starting in the month prior to the filing of the petition (*i.e.*, November 2015 through January 2016). Based on this analysis, we preliminarily determine that Taigang had massive imports.¹³

For “all other” exporters or producers, the Department compared Global Trade Atlas (GTA) data for the period February through April (the last month for which GTA data is currently available) with the proceeding three-month period of November 2015 through January 2016.¹⁴ We then subtracted shipments reported by the cooperating mandatory respondent from

¹³ See Memorandum, “Monthly Shipment Quantity and Value Analysis for Critical Circumstances Preliminary Determination,” June 20, 2016.

¹⁴ The Department gathered GTA data under the following harmonized tariff schedule numbers: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.13.0081, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.23.0030, 7219.23.0060, 7219.24.0030, 7219.24.0060, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005,

the GTA data. Based on this analysis, we preliminarily determine that “all other” exporters or producers had massive imports.¹⁵

Because we do not have verifiable shipment data from the non-cooperating mandatory respondents (*i.e.*, those mandatory respondents that did not respond to the initial questionnaire or who otherwise indicated their unwillingness to participate in the investigation), we determined, on the basis of adverse facts available,¹⁶ that there has been a massive surge in imports.

Accordingly, we preliminarily determine that the following producers/exporters had massive surges in imports: Ningbo Baoxin, and Daming.¹⁷

Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances exist with respect to imports of stainless sheet and strip shipped by Taigang, Ningbo Baoxin, Daming, and “all other” exporters or producers.

Final Critical Circumstances Determination

We will issue a final determination concerning critical circumstances when we issue our final subsidy determination. All interested parties will have the opportunity to address this determination in case briefs to be submitted after completion of the preliminary CVD determination.

ITC Notification

7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080.

¹⁵ *Id.*

¹⁶ See Section 776 of the Act.

¹⁷ See Memorandum, “Monthly Shipment Quantity and Value Analysis for Critical Circumstances Preliminary Determination,” dated concurrently with this *Federal Register* notice.

In accordance with sections 703(f) and 733(f) of the Act, we will notify the ITC of our determination.

Suspension of Liquidation

In accordance with sections 703(e)(2), because we have preliminarily found that critical circumstances exist with regard to imports exported by certain producers and exporters, if we make an affirmative preliminary determination that countervailable subsidies have been provided to these same producers/exporters at above *de minimis* rates,¹⁸ we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from these producers/exporters that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of “provisional measures” (*e.g.*, the date of publication in the *Federal Register* of the notice of an affirmative preliminary determination that countervailable subsidies have been provided at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary subsidy rates reflected in the preliminary determination published in the *Federal Register*. This suspension of liquidation will remain in effect until further notice.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.206(c)(2).

Ronald K. Lorentzen

Acting Assistant Secretary

for Enforcement and Compliance

¹⁸ The preliminary determinations concerning the provision of countervailable subsidies is currently scheduled for July 11, 2016.

Dated: June 20, 2016.

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